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**Sent:** Fri 1/11/2013 3:09:24 PM
**Subject:** Water Law News for January 11, 2013

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WATER LAW NEWS
JANUARY 11, 2013

HIGHLIGHTS

EPA Urged to Study Arsenic Sources, Seek Views of Those Highly Exposed
EPA should consider the many different ways people can be exposed to arsenic as it prepares a new risk assessment of inorganic arsenic, and it should seek views from heavily exposed communities, audience members tell EPA staff during a workshop on the assessment. ... More »
Boxer Establishes Climate Change Counsel Post for Senate Committee
Sen. Boxer appoints environmental attorney Joe Mendelson to the post of climate change counsel for the Senate Environment and Public Works Committee, which will be charged with drafting legislative solutions to curb the nation's greenhouse gas emissions. Mendelson's appointment comes a month after Senate Democrats formed a Climate Change Caucus that will work with other committees to move climate change legislation. ... More »
West Virginia Should Better Study Coal Slurry Risks, Interior Says
West Virginia environmental regulators should not rely solely on underground mine maps to weigh the risk of a breakthrough for liquid coal waste that is impounded in dams, according to a report by the Interior Department's Office of Surface Mining Reclamation and Enforcement. The report makes six recommendations for better protecting the environment and the safety of miners, all of which the West Virginia Department of Environmental Protection has agreed to implement over the next three years. ... More »
Revised Total Coliform Rule Said to Offer Relief to Small Systems
EPA's revised total coliform rule will help small drinking water systems through a new scheme that will not require public notification to customers when total coliforms are detected, a utility representative says. Mike Keegan, with the National Rural Water Association, says that is a key change from the current total coliform rule. Total coliforms are not necessarily an indicator of contamination, he says, and readings are often due to sampling errors. ... More »
Court Approves Patriot Coal's Phaseout of Large-Scale Surface Mining
A federal court approves Patriot Coal Corp.'s plan to phase out all of its large-scale surface mining in

Appalachia by 2018. The U.S. District Court for the Southern District of West Virginia authorizes a settlement agreement reached with three environmental groups that requires Patriot Coal to cut back its annual coal production from surface mining in exchange for receiving more time to control selenium pollution at several mines. ... More »

Colorado Governor Urges Support for State Regulation of Oil, Gas Sector

Colorado Gov. John Hickenlooper (D) advises state lawmakers to refrain from giving local governments more regulatory control over oil and gas activities. A uniform, statewide set of rules is the "most efficient and effective way" to reduce carbon emissions, "create good-paying jobs, and still protect the environment," he says in his State of the State address. ... More » … The Colorado Oil and Gas Conservation Commission gives preliminary approval to rules imposing new requirements for "setbacks," or the minimum distance between drilling operations and occupied buildings. ... More »

EPA Offers to Help Iowa on Numeric Criteria to Reduce Pollutants

EPA offers to work with Iowa in establishing numeric criteria for nutrients to help the state with its strategy to reduce the flow of nitrogen and phosphorus into its waters. In comments on the state's strategy, Region 7 Administrator Karl Brooks writes that the state's call to evaluate numeric criteria does not reflect EPA's current thinking on criteria development and implementation. ... More »

California Budget Proposal Includes $7 Billion for Environment

California's environment-related programs and agencies would share over $7 billion in general fund revenue, special fund money, and bond funds in fiscal year 2013-2014 under a budget proposal by Gov. Jerry Brown (D). Overall, the $7 billion total is up slightly from the $6.6 billion in the current fiscal year, which ends June 30. The spending plan would double the level of total special funds and bond money available. ... More »

Chamber of Commerce Predicts More Lawsuits to Block 'Flood' of Rules

U.S. Chamber of Commerce President Tom Donohue says the association will be more active this year with lawsuits challenging regulations it opposes, including initiatives by EPA. The Chamber's law firm, the National Chamber Litigation Center, will significantly expand its activities to deal with "the flood of new regulations" in the areas of environmental protection, financial reform, and health care, he says. ... More »

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WATER RESOURCES: A special master assigned by the U.S. Supreme Court proposes that Nebraska pay $5 million to Kansas as restitution for overdrawing water under an interstate Compact, but Kansas would not get other relief it sought. ... More »

WATER RESOURCES: Report outlines opportunities to improve information in support of water managers A-12

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Industry Looks To 'Flow' Ruling To Bolster Suit Against Chesapeake TMDL

Industry plaintiffs seeking to overturn EPA's total maximum daily load (TMDL) for the Chesapeake Bay are trying to bolster their case by citing a recent Virginia district judge's ruling that rejected EPA's bid to regulate water "flow" as a surrogate for sediment in another cleanup plan, saying both suits show the limits on EPA's TMDL powers.

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Arctic Drilling Faces DOI Review

Department of the Interior (DOI) Secretary Ken Salazar is vowing an expedited assessment of Arctic drilling operations after the grounding of a Shell drill rig, . . .

HYDRAULIC FRACTURING:

EPA delaying Pavillion case for 8 months

Mike Soraghan, E&E reporter
Published: Thursday, January 10, 2013
U.S. EPA is delaying its work on the Pavillion, Wyo., water pollution case by more than eight months, angering both sides in the bitter debate about whether drilling and hydraulic fracturing contaminated drinking water in the area.
Neither the people who say their water is contaminated nor the company involved, Encana Corp., wanted the delay.
Representatives of both sides today criticized the decision.
"This is very disappointing," said Doug Hock, spokesman for Encana Oil & Gas (USA) Inc. "It's a disservice not only to Encana, but to the people of Pavillion and the state of Wyoming. There's no credible reason for any further delay on this issue."
Encana is the main driller in the Pavillion area, where EPA has been testing groundwater because of complaints from landowners about fouled water.
In a draft report released a year ago, the researchers said they had found fluid from hydraulic fracturing in groundwater but not in drinking water.
Encana, along with state officials, maintains that EPA contaminated the water itself when it drilled its two monitoring wells (EnergyWire, Dec. 7, 2012).
EPA is to put a notice in the Federal Register tomorrow that it will extend the comment period, which was to expire next week, until Sept. 30, according to a federal document posted today. The agency released a statement but did not provide an explicit reason for the delay.
"This extension will allow the public additional opportunity to comment on EPA's draft report and the latest round of sampling conducted by EPA" and the U.S. Geological Survey, an agency spokesman said in a statement. "The agency will take into account new data, further stakeholder input, and public comment as it continues to review the status of the Pavillion investigation and considers options for moving forward."
The vague reasoning left room for people on both sides to speculate about what is happening behind the scenes.
Deb Thomas, an organizer who has worked with the Pavillion-area residents with water complaints, said she believes EPA headquarters officials in Washington are interfering with the diligent efforts of scientists at the agency's Denver-based Region 8 office.
"Region 8 has done such a good job on this," Thomas said. "It appears that upper levels of management are not giving residents of Pavillion the same consideration."
Industry officials say EPA is trying to figure out what to do with flawed findings.
"This delay shows that the EPA is running scared," said Simon Lomax, the Denver-based spokesman for the industry campaign Energy in Depth. "The agency knows its draft report is deeply flawed, but instead of doing the responsible thing and withdrawing it, EPA is dragging out the process."
Some pointed out that EPA Administrator Lisa Jackson plans to leave before the end of the month. An industry source speculated that the agency might not want a new administrator to have to deal with the Pavillion controversy "on day one."
The length of the delay is also unusual. Comment periods are usually extended by 30, 60 or 90 days.
EPA has already delayed the case once after a combined assault on the findings by industry and state officials.

OFFSHORE DRILLING:
Interior renews push for ocean safety institute
Phil Taylor, E&E reporter
Published: Thursday, January 10, 2013
A top Interior Department official today called for the establishment of a new ocean energy safety institute to enhance collaboration among government, industry, academia and the environmental community on how to keep pace with the rapid evolution of offshore drilling technologies.
Deputy Secretary David Hayes suggested the institute may be established by secretarial order if Congress fails to act.
The institute, which Interior first proposed to Congress in the months after the Deepwater Horizon oil spill, comes as companies expand drilling into deeper waters, higher-pressure reservoirs and frontier regions like the Arctic.
Investigations of the Deepwater Horizon spill concluded that government officials had neither the expertise nor the resources necessary to oversee BP PLC's well-containment efforts.
"How can we ensure the government overseers and regulators are up to speed with the technology and have the know-how to interact with the technologists at the oil and gas industry that are on the cutting edge, which continues to push forward?" Hayes said in an address this morning to the agency's Ocean Energy Safety Advisory Committee in Washington, D.C. "The goal is to enable and ensure that as the technology moves forward, so does the knowledge and ability to address safety and environmental issues associated with that cutting-edge technology."
Hayes said he is hoping the institute can find a "synergistic role" with the National Academy of Sciences, which may soon be the recipient of $500 million from oil spill settlements with BP and Transocean, the owner of the Deepwater Horizon rig.
Interior proposed the institute as part of a post-spill legislative package to Congress that included the reorganization of the troubled Minerals Management Service.
Interior Secretary Ken Salazar later split MMS into the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement, with revenue collection functions housed in the secretary's office. But Congress has failed to codify

the agencies or enact most of the agency's other recommendations.
Hayes' remarks come as the 15-member committee nears the end of its two-year charter and prepares to issue a range of safety recommendations, including the establishment of a safety institute.
Salazar in 2010 said the institute would support research, development and training to tackle offshore drilling safety, blowout containment and oil spill response.
The concept was later endorsed by the president's BP oil spill commission, which recommended such an institute include Interior, the Coast Guard, and the Department of Energy and its national laboratories.
Charlie Williams, a former chief scientist at Royal Dutch Shell PLC, said the institute would complement the work he oversees at the Center for Offshore Safety, an industry-backed group launched recently to provide training in safety management systems.
"It goes way beyond our mission," said Williams, who serves on the committee, of the proposed institute.
"This is really going to work on technologies that support drilling safety and cleanup technology," he added. "It's going to really look ... and say, 'Are there gaps?' And if there are gaps, it's going to propose people who could work on things to close the gaps."
Arctic issues
Hayes also said the agency supports the committee's recommendations to establish regulations specific to Arctic drilling.
The meeting came months after Shell concluded a drilling season marked by a handful of operational and regulatory mishaps, the latest of which involved the grounding of a drillship loaded with fuel. None of the ship's 143,000 gallons of diesel was spilled, and only a few minor injuries were sustained.
Salazar yesterday said he had "a troubling sense" about how many things went wrong for Shell, which has not said whether its drilling plans for 2013 have changed.
Interior this week launched a high-level, expedited review of Shell's 2012 season.
"We agree the Arctic is a frontier environment," said Hayes, who noted that Interior is requiring that Shell have a rig on hand to drill a relief well and to maintain on-scene containment and capping stack capabilities in the Arctic -- steps that are not required of shallow-water drilling in the Gulf of Mexico.
The advisory committee would like those kinds of regulations to be standardized for Arctic drilling.
Hayes also said an interagency working group the president established in summer 2011 to coordinate energy permitting in Alaska is supporting a more "holistic" way of conducting environmental reviews.
For example, Interior was able to avoid a "siloed" review of Shell's oil spill response plan in the Arctic by involving U.S. EPA, the National Oceanic and Atmospheric Administration and the Coast Guard, he said.
The working group, which he leads, is nearing completion of a report to the president that will highlight the importance of science to the agency's decisionmaking.

COAL:
Feds ask W.Va. to beef up slurry pond safety
Manuel Quinones, E&E reporter
Published: Thursday, January 10, 2013
The federal Office of Surface Mining released a long-awaited report today spotting deficiencies in West Virginia's efforts at preventing large surface impoundments from breaking into underground mines.
Inspectors found that state regulators have allowed new underground mines to penetrate the "safety zone" of retired impoundments without making sure there is no longer liquid that can flow into the shaft.
Also, OSM said the West Virginia Department of Environmental Protection relied too much on mine maps to see whether there was any evidence of mining near impoundments.
"Mine maps are not always totally reliable," said OSM West Virginia chief Roger Calhoun. "You need more than mine maps if you have minable seams near your basins."
Previous probes had found problems with preventing spills from ponds, which contain water disposed from mining-related activities, into underground mines.
The new report was OSM's third study into West Virginia's oversight. The agency, which reviewed permits for 15 sites with different levels of activity, wanted to see whether there was any systematic problem. The document outlines no imminent risks.
"We didn't find where there was mining in a safety zone for sure. We found some indicators," Calhoun said. "If there is not mining, there is no risk. What we've said is, look again at minable seams."
The report also identified administrative and record-keeping issues. In one case, a mine operator was found dumping slurry into a pond that had been ordered closed.
"There were numerous instances where the files lacked detail, contained inconsistencies and indicated that the State inspectors did not have an adequate understanding of the details of an impoundment plan," it said.
But OSM said the report was not an indictment of West Virginia's oversight of more than 100 slurry ponds around the state. It recognized the state's efforts since 2001, including rulemaking, to identify problems. For example, state regulators had ordered five of the 15 ponds surveyed to shut down because of safety concerns.
"West Virginia hasn't been sitting idly by doing nothing," state Department of Environmental Protection engineer Jim Pierce said during a conference call with reporters. "Since that time, we have made great strides in reducing the risk of breakthrough."
OSM and the state came up with a plan to correct any deficiencies. That includes using other tools like drilling to see whether

mining is occurring near slurry ponds. Regulators will review all impoundments over the next three years.
OSM will also expand its probe beyond West Virginia to include several more Appalachian states. That endeavor, Calhoun said, would also likely take several years.
Slurry impoundments came into public attention late last year when a Consol Energy Inc. dam partially collapsed in West Virginia, killing one worker and injuring two others (Greenwire, Dec. 7, 2012). Slurry did not spill beyond the impoundment.
When it comes to spills into mines, OSM says there have been four major cases since 1996, three in Virginia and one in Kentucky. The Mine Safety and Health Administration also polices coal slurry ponds

SUPREME COURT:
Wetlands regulation at heart of Fla. property rights dispute
Lawrence Hurley, E&E reporter
Published: Thursday, January 10, 2013
In late 1993 and early 1994, Coy Koontz Sr. applied for two permits from a Florida agency as he sought to build on wetlands he owned just east of Orlando.
Today, Koontz has been dead for 13 years, his family no longer owns the property and the permits have long been approved. And yet a legal dispute about the permitting process is about to be argued at the Supreme Court.
When it hears arguments in the case Tuesday, the court will consider whether Koontz -- whose son, Coy Koontz Jr., has taken his place in the litigation -- should have received compensation under the takings clause of the Fifth Amendment for the squabble over permit conditions that lasted from 1994 to 2005, when the government agency in question, the St. Johns River Water Management District, finally approved the permit.
The case, Koontz v. St. Johns River Water Management District, raises major questions about the right of government to impose conditions in return for permit approval.
As Koontz Jr., a 68-year-old retiree, put it in an interview, his father felt that the district could do whatever it wanted.

Coy Koontz Jr. pictured on his family's former property just east of Orlando, Fla. Photo courtesy of the Pacific Legal Foundation.

"When he went down there to get a permit, they had changed the ground rules," he said.
The case is one of three property rights cases the court has agreed to hear this term. It is the first time since the 2004-2005 term that the court has heard more than one on the issue (Greenwire, Nov. 6, 2012).
The justices will delve into the question of whether Supreme Court precedents limiting the ability of government entities to place conditions on landowners in exchange for permits -- which generally apply to limitations on the use of the property in question -- also apply to "money, services, labor, or any other type of personal property."
The court will also consider whether a constitutional violation can occur even when no permit has been issued.
A ruling in favor of Koontz would be a major victory for property rights advocates and would be met with dismay by federal, state and local government officials who handle land-use permitting.
"It's a major case," said John Echeverria, a professor at Vermont Law School who has filed a brief in support of the Florida agency. "It deals with the traditional standard that deals with government review of permit conditions."
'No dedication of property'
Koontz Sr. applied for two permits in December 1993 and February 1994 for his 14.9-acre property, which is within the Econlockhatchee River Hydrologic Basin and located at a busy intersection. All but 1.4 acres was part of a state riparian habitat protection zone. His proposal would have led to the destruction of 3.4 acres of wetlands and 0.3 acre of protected uplands.
Koontz's lawyers say the land itself did not contain any existing wetlands due to a state-built ditch that had drained all the water.
In his application, Koontz offered to place 11 acres of the property into a conservation easement in return for the permit. The district said that he would need to not only dedicate the 11 acres but also provide more mitigation, most likely in the form of work he would pay for to improve wetlands owned by the district several miles away. The district said the work would cost up to $10,000. Koontz said it would have been more like $90,000 to $150,000.
Government agencies are somewhat limited as to what requirements they can impose on landowners as a result of two previous Supreme Court decisions. In a 1987 case, Nollan v. California Coastal Commission, the court held there needs to be an "essential nexus" between the government request and the need to alleviate a problem created by the property owner's proposal. In 1994, the court held in Dolan v. City of Tigard that there needs to be "rough proportionality" between the conditions imposed and the impact of the proposed development.
In practice, those precedents only apply when a condition is imposed on the landowner if a permit has been issued. In such situations, a government entity is required to justify any request that requires a donation of land for public use. The law varies from state to state; in some, the government already must justify conditions that include monetary transactions.
At the federal level, one of the agencies that could be affected by the case is the Army Corps of Engineers, which issues "dredge and fill" permits for wetlands. Solicitor General Donald Verrilli noted in a brief that monetary payments for either off-site mitigation or mitigation credits "are now the federal government's preferred option" for dealing with mitigation.

The Supreme Court now has an opportunity to decide once and for all whether to apply the Nollan and Dolan precedents to a broader range of conditions, including money payments, although it would first have to decide whether Koontz would have a claim based on the fact that no permit was actually issued at the time Koontz claimed the taking occurred.

Koontz sued back in 1994. The case went to trial in 2002 on the question of whether the off-site mitigation requirement was a taking.

The court awarded Koontz's son $327,500 for the temporary regulatory taking from the date the permit was denied to the date it was finally issued in 2005. The court cited the two Supreme Court precedents in finding there had been a taking.

On appeal, the Florida Supreme Court ruled in favor of the government agency, saying the Supreme Court precedent did not apply in the case because there was no "dedication of real property," and the agency had not issued a permit.

Koontz's attorneys are from the Pacific Legal Foundation, a Sacramento, Calif.-based conservative legal group that has made its name litigating property rights cases. Most recently, the group won a Supreme Court case last term when the court ruled that property owners have a right to go to court to contest compliance orders issued by U.S. EPA (Greenwire, Aug. 17, 2012).

Attorney Paul Beard, who will be arguing his first case in the Supreme Court, maintains his client was forced to choose between two constitutional rights: the right to make use of his own property and his right to seek compensation for the cost that would be incurred if he made the improvements required by the district in return for the permit.

By making its offer on one hand and refusing to issue the permit on the other, the district was attempting to "bargain its way around the takings clause's requirement that property taken for a public use be compensated," Beard wrote in a court filing.

It was exactly the type of conduct the Nollan and Dolan decisions were intended to prevent, Beard added.

Attorneys for the district, led by Paul Wolfson of WilmerHale, frame the question differently. As they put it, Koontz is seeking compensation for the denial of a permit "where his land has not been physically invaded and retains economically viable uses." Koontz was not required to donate property or spend any money, the district says.

Put simply, a property owner cannot seek compensation "for property that was never taken," Wolfson wrote. He also insisted that the district never said it would deny the permit purely on the grounds that Koontz would not agree to the mitigation payment.

Under the relevant regulations, landowners are required to come up with a proposal for mitigation if there are concerns that the proposed development will negatively affect wetlands. Koontz did not submit any suggestions and rejected several alternatives the district proposed, the district says.

Only then did the district deny the permit application, Wolfson said in his brief.

"All that the district required was that petitioner offset -- in whatever way he chose -- the adverse environmental impact of his project in a manner sufficient to comply with the applicable regulatory standards," he wrote.

The Obama administration has sided with the water management district. Solicitor General Verrilli wrote in his brief that it would be a taking only if there was the "actual appropriation of property."

'Velvet-covered hammer'

Law professor Echeverria, who filed his brief on behalf of the National Governors Association and other government-affiliated groups, said a ruling for Koontz could "hamstring local officials trying to regulate development activity."

Among other things, it would "compel courts to attempt to make highly speculative determinations about numerous, ill-defined potential conditions that may have been considered but were ultimately not adopted," Echeverria wrote in his brief.

Similarly, Verrilli warned in his brief that a Supreme Court decision in favor of Koontz "would impose inappropriate burdens and costs on state and federal land-use regulation and would not be in the interests of either landowners or government."

In Florida, for example, the state and federal government help landowners identify mitigation measures. Those government entities "would refrain from assisting permit applicants to identify acceptable mitigation measures" in the future if the landowners could then make a takings claim if they disagree with the suggestions, Verrilli said.

Supporters of Koontz, including business groups like the National Association of Homebuilders, downplay the impact of a favorable ruling for Koontz.

In a brief filed by the homebuilders group and other property owner interests, attorney Michael Berger of Manatt Phelps & Williams wrote that the burden should be on the government, not the property owner, to show that its permit conditions are legally valid.

He stressed that the "sky will not fall" if government entities cannot "coerce citizens to pay for public improvements for which they did not create the need."

But Koontz attorney Beard sees a nightmare scenario if the court doesn't reverse the Florida court's ruling.

The Supreme Court's own precedent-setting cases "will be dead letters," he said, because agencies could "skirt around" them by imposing stringent conditions and then denying permits when the property owner balks.

If the rule stands, "governments will simply make all conditions prior to approval," he added.

Robert Thomas, a Hawaii-based lawyer who filed a brief on behalf of the Owners' Counsel of America and represents property owners seeking permits, said his clients often accept stringent conditions on a regular basis simply so they can pursue their projects in a timely manner.

"They are willing to live with what might be unconstitutional requirements," Thomas said.

Government agency proposals are not mere "suggestions," as pro-government lawyers have argued, Thomas added. "It's a velvet-covered hammer," he said.

Koontz Jr. -- who now lives in North Carolina -- will be an observer in court next week, along with his wife and two grandchildren. As he noted, a trip to the Supreme Court is likely to be "a one-time experience for me."

Not surprisingly, he is glad the end of his family's legal odyssey is in sight.
"We are going into the 19th year, and I would like to get this done and over with," he said.
As for the property that has been the subject of such hard-fought litigation -- it remains undeveloped

GULF SPILL:
Court rules BP must inform public about toxics released during blowout
Published: Thursday, January 10, 2013
BP PLC and its partners in the well that released an estimated 4.9 million gallons of oil into the Gulf of Mexico in 2010 should be required to inform state officials and the public of the toxic materials released during the spill and the potential health consequences, a federal appeals court panel said Wednesday.
In winning a unanimous decision from the three-judge panel, the Center for Biological Diversity scored a partial victory in its attempt to force more disclosure from BP following the Deepwater Horizon oil spill. The appeals court said other efforts by the center, including penalties against BP for Clean Water Act violations, were moot.
"It's a very important victory that BP could be finally forced to publicly disclose all the toxic components it spilled into the waters, but we're disappointed by the dismissal of our Clean Water Act claims," said Miyoko Sakashita, oceans director for the center. "Throughout it all, we've insisted that those responsible for one of the worst environmental disasters in America's history should be held fully accountable for the profound damage they caused. The Gulf needs to be fully restored, both for the sake of its wildlife and for the people who depend on it for survival. We're certainly not there yet."
BP and the other companies liable for the spill will also face civil court proceedings over environmental fines and other actions addressed by federal environmental laws (Mark Schleifstein, New Orleans Times-Picayune, Jan. 10).
BP has paid businesses and individuals who say they were affected by the 2010 spill more than $1 billion through a class-action settlement, court-supervised claims administrator Patrick Juneau said.
Juneau said that 95 percent of claimants who were offered payments decided to accept them and that the payments topped the $1 billion mark before the end of last year.
"I feel this high rate of acceptance reflects the fairness of the settlement amounts as well as the fairness of the claims process," Juneau said in a statement.
The court-supervised claims process was set up in June 2012 to replace the Gulf Coast Claims Facility led by Kenneth Feinberg. Juneau said an additional $404 million in claims was paid during the transition from the previous claims process to his program.
BP estimates it will ultimately pay about $7.8 billion to resolve more than 100,000 claims through the settlement, which received a federal judge's final approval last month. The settlement, however, isn't capped (AP/Fuel Fix, Jan. 10). -- KJ

ARCTIC:
Fuel may have leaked from grounded rig's lifeboats -- officials
Published: Thursday, January 10, 2013
As much as 270 gallons of diesel fuel may have been released from tanks on four lifeboats dislodged from the drilling rig that ran aground in the Gulf of Alaska last week, officials said in an update last night.
Each lifeboat had a 68-gallon fuel tank, private and federal officials said. Two of the tanks are reportedly damaged, while a third is inaccessible. The fourth appears to be intact.
Crews want to recover the lifeboats, a dislodged rescue boat and other debris from the uninhabited Sitkalidak Island.
There is still no sign of fuel leaks from the Royal Dutch Shell PLC rig itself, officials said (AP/Fuel Fix, Jan. 10). -- JE

HYDRAULIC FRACTURING:
Pa. regulators promote use of acid mine drainage at frack sites
Manuel Quinones, E&E reporter
Published: Thursday, January 10, 2013
The Pennsylvania Department of Environmental Protection yesterday released its final white paper aimed at encouraging gas drillers to use acid mine drainage in hydraulic fracturing operations.
The agency wants to capitalize on 300 million gallons of wastewater from abandoned coal mines to reduce the use of clean water by oil and gas operations and to divert polluted water being dumped into waterways. More than 5,000 miles of Pennsylvania streams are polluted by mine wastes.
"Abandoned mines present Pennsylvania with one of its biggest environmental challenges," DEP Secretary Mike Krancer said in a statement. "This initiative, which combines remediating abandoned mine water with responsible extraction of our natural gas resources, is a win for our environment and our economy."
DEP worked with business and environmental advocates to tweak the white paper after the release of a draft in 2011 (Greenwire, Nov. 22, 2011). It followed a recommendation from the governor's Marcellus Shale Advisory Commission.
The paper doesn't create any new regulations, instead offering industry and environmental stakeholders a map for navigating the bureaucracy. It outlines ways to submit proposals and deal with liability issues. Proposals must include details about transporting the water, storage and sampling results.
The DEP made a list of priority discharge sites, which generally coincide with heavy drilling areas, for companies to consider. The

white paper also encourages drillers to work with nonprofit organizations and watershed groups that help clean up abandoned mine sites.
Last year the Rand Corp. released a report on the use of acid mine drainage in fracking (EnergyWire, April 18, 2012). One barrier, it said, was the problem of mixing mine-impacted water with drilling chemicals.
Click here to read the white paper.

CLIMATE:
Federal water managers need better monitoring, forecasting -- report
Annie Snider, E&E reporter
Published: Thursday, January 10, 2013
As climate change promises to alter precipitation patterns and bring more weather extremes, the federal agencies responsible for managing much of the country's water resources -- from dams to ports to irrigations systems -- are calling for better monitoring, forecasting and communication.
The U.S. Army Corps of Engineers and the Bureau of Reclamation released a report that surveyed operators on short-term water management decisions and their needs in the face of a changing climate.
The report was drafted with collaboration from the National Weather Service through the Climate Change and Water Working Group. It follows a 2011 report on long-term planning needs.
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The report also calls for improved forecasting that gives managers a sense of how likely certain potential weather events are, and better communication about what can and can't be expected from such forecasts.
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the uninhabited Sitkalidak Island.
There is still no sign of fuel leaks from the Royal Dutch Shell PLC rig itself, officials said (AP/Fuel Fix, Jan. 10). -- JE

HYDRAULIC FRACTURING:
Pa. regulators promote use of acid mine drainage at frack sites
Manuel Quinones, E&E reporter
Published: Thursday, January 10, 2013
The Pennsylvania Department of Environmental Protection yesterday released its final white paper aimed at encouraging gas drillers to use acid mine drainage in hydraulic fracturing operations.
The agency wants to capitalize on 300 million gallons of wastewater from abandoned coal mines to reduce the use of clean water by oil and gas operations and to divert polluted water being dumped into waterways. More than 5,000 miles of Pennsylvania streams are polluted by mine wastes.
"Abandoned mines present Pennsylvania with one of its biggest environmental challenges," DEP Secretary Mike Krancer said in a statement. "This initiative, which combines remediating abandoned mine water with responsible extraction of our natural gas resources, is a win for our environment and our economy."
DEP worked with business and environmental advocates to tweak the white paper after the release of a draft in 2011 (Greenwire, Nov. 22, 2011). It followed a recommendation from the governor's Marcellus Shale Advisory Commission.
The paper doesn't create any new regulations, instead offering industry and environmental stakeholders a map for navigating the bureaucracy. It outlines ways to submit proposals and deal with liability issues. Proposals must include details about transporting the water, storage and sampling results.
The DEP made a list of priority discharge sites, which generally coincide with heavy drilling areas, for companies to consider. The white paper also encourages drillers to work with nonprofit organizations and watershed groups that help clean up abandoned mine sites.
Last year the Rand Corp. released a report on the use of acid mine drainage in fracking (EnergyWire, April 18, 2012). One barrier, it said, was the problem of mixing mine-impacted water with drilling chemicals.
Click here to read the white paper.

CLIMATE:
Federal water managers need better monitoring, forecasting -- report
Annie Snider, E&E reporter
Published: Thursday, January 10, 2013
As climate change promises to alter precipitation patterns and bring more weather extremes, the federal agencies responsible for managing much of the country's water resources -- from dams to ports to irrigations systems -- are calling for better monitoring, forecasting and communication.
The U.S. Army Corps of Engineers and the Bureau of Reclamation released a report that surveyed operators on short-term water management decisions and their needs in the face of a changing climate.

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